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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/759,891	01/16/2004	J. David Prest	1756-A-22	8475

7590

12/02/2005

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EXAMINER

WILLIAMS, MARK A

ART UNIT

PAPER NUMBER

3676

DATE MAILED: 12/02/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/759,891	Applicant(s) PREST	
	Examiner Mark A. Williams	Art Unit 3676	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on 12 September 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,3-13 and 15-20 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1,3-13,15 and 16 is/are rejected.
- 7) ☒ Claim(s) 17-20 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1 and 3-12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Wong, US Patent 5,003,664, in view of Althus et al., US Patent 4,829,627, and in further view of Elliott, US Patent 1,782,293. Wong provides a rug that may be attachable to a step and a riser, said rug comprising in combination a bendable layer of material (near 38), said layer including first and second edges; one of a first hook fastener and a first loop fastener secured proximate one of said first and second edges, one of a second hook fastener and a second loop fastener secured proximate another of said first and second edges; another of said first hook fastener and said first loop fastener adapted for attachment to the step; and another of said second hook fastener and said second loop fastener that may be adapted for attachment to the riser. The device can be used with a step and riser as claimed. Clearly one can see parallel edges, rectangular shape, and four corners, as

conventional in the art. Wong in column 2, lines 45-47 disclose adhesive as claimed.

Wong discloses the claimed invention except male and female snap locks in conjunction with hook and loop fasteners, as claimed. (Note that the “attachable to”, “for securing”, “adapted for”, and “for attachment to” language of the claims constitutes intended use and thus are not positively claimed limitations with respect to the step and riser being part of the invention. All that is required for such limitations to be met is that a device be capable of performing such a function.) Althus discloses the general concept of snap fasteners (male 22, female 24) for the purpose of securing a mat. It would have been obvious at the time the invention was made for one skilled in the art to have utilized snap fasteners, similar to that taught by Athus, for the purpose of providing additional securing means to the device. The limitations of claims 5-9 are obvious to the combination.

Regarding the female or male fastener extending from the underside of the rug, such a concept is generally old and well known in the art. Elliott discloses such a limitation, for the purpose of securing a rug. It would have been obvious to have modified the design of the combination to include such a limitation for the purpose of providing alternative know means of securing a rug.

Allowable Subject Matter

3. Claims 13 and 15-20 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Response to Arguments

4. Applicant's arguments with respect to the claims of record are not persuasive.

Applicant argues that the claims require the rug to be in contact with and directly attached to the step and riser. Note that the “attachable to”, “for securing”, “adapted for”, and “for attachment to” language of the claims constitutes intended use and thus are not positively claimed limitations with respect to the step and riser being part of the invention. All that is required for such limitations to be met is that a device be capable of performing such a function. The art of record is capable of performing such function, in a board since, because it is bendable.

Applicant argues that no male/female snap lock is disclosed in the Altus Patent in the manner claimed. As outlined in the above rejection, such fasteners are shown at elements 22 and 24. It is not required by the claim language for these elements to be in conjunction with the step and raisers.

Applicant argues that the fasteners do not extend from the underside of the rug, as claimed. This limitation is addressed the application of Elliott in the above rejection. Such a modification does not constitute a patentable feature.

Conclusion

5. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).


A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Mark A. Williams whose telephone number is (703) 305-3438. The examiner can normally be reached on Monday through Friday.

The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Mark Williams
11/23/05 *MW*


BRIAN E. GLESSNER
SUPERVISORY PATENT EXAMINER